I. <u>Department of Transportation</u> -- Jim McDonnell, Budget Director

The department requests approval of a plan to distribute additional federal aid as required under Section 9155 (2u) of 1995 Act 113.

Governor's Recommendation

Approve the request.

Department of Administration

Date:

December 10, 1996

To:

Members, Joint Committee on Finance

From:

Mark D. Bugher, Secretary

Department of Administration

Subject:

Section 13.10 Request from the Department of Transportation for Approval of a Plan to

Distribute Additional Federal Aid.

Request

Section 9155 (2u) of 1995 Act 113 requires the Department of Transportation (DOT) to submit to the Joint Committee on Finance a plan identifying how DOT proposes to adjust its appropriations for FY 97 to reflect actual federal aid levels. Section 9155 (2u) also provides that changes to federal appropriations may not be implemented until the Joint Finance Committee approves the modification.

DOT requests the following adjustments to reflect a level of federal highway aid that is \$13.0 million more than the amount projected for FY 97 in Act 113.

- 1.) + \$7.6 million to appropriation s. 395 (3) (bx), the federal appropriation for major highway development.
- 2) + \$5.4 million to appropriation s. 395 (3) (cx), the federal appropriation for state highway rehabilitation.
- 3.) To the extent the actual additional amount exceeds the \$13.0 million estimate, DOT would adjust the state highway rehabilitation program using routine authority to manage variations in federal aid.

Background

Although the FFY 97 federal transportation appropriations bill was signed into law September 30, 1996, to date the Federal Highway Administration (FHWA) has provided states with only partial information about funding for FFY 97.

At issue is whether the Department of the Treasury can and should make adjustments in prior year gas tax receipts, moving some receipts that had been credited to FFY 95 as a result of delayed processing back to FFY 94 where the actual transactions occurred. This administrative problem was recognized more than a year ago, but no corrective action was proposed until it became clear that this error would significantly impact funding distribution in FFY 97, as gas tax receipts are used in calculating certain minimum funding provisions.

Members, Joint Committee on Finance December 10, 1996 Page 2

Congress had considered and rejected this year in conference committee a legislative provision to instruct FHWA to distribute FFY 97 highway aids as if this delayed crediting of receipts had not occurred. However, shortly after the appropriations bill passed, the Administration began considering whether the Treasury Department could change the date of these receipts administratively.

Just recently, the Treasury Department announced that its legal counsel determined that it did have the authority to address the issue administratively and said that it would do so. However, recognizing that this action would be controversial, Treasury forwarded its legal opinion to the General Accounting Office (GAO), for concurrence. Treasury asked the GAO complete its review by December 6. On November 22, FHWA announced that it would provide states with complete FFY 97 funding levels by "mid-December" if GAO concurred with Treasury's legal opinion. States that would benefit from Treasury's administrative remedy include New York, Massachusetts, Illinois, and Ohio. States that would not benefit include Wisconsin, California, and Florida.

Although DOT does not have official estimates from FHWA, the Department has received two sets of projections from House Public Works and Infrastructure Committee staff. These projections show what funding states would receive under two scenarios: if the proposed change is made and if the status quo prevails.

These two scenarios indicate that Wisconsin will receive between \$321 and \$330 million in new funding in FFY 97. Combined with redistributed FFY 96 funds of \$5.9 million already received in August, Wisconsin's projected total would range between \$327 million and \$336 million. This compares with current base level funding of \$314 million.

DOT proposes to use the lower of these two federal aid estimates (\$327 million) with the additional federal aid (\$13.0 million) targeted towards major highway development (\$7.6 million) and highway rehabilitation (\$5.4 million). Any federal aid above \$327 million would be targeted towards highway rehabilitation.

Analysis

DOT is requesting to allocate \$7.6 million of the projected \$13.0 million in additional federal funds to major highway development. With this additional funding, DOT expects to be able to accelerate work on a portion of the Highway 10 corridor project in Waupaca County. Accomplishing this project in FY 97 has the additional benefit of allowing DOT to shift into FY 98 a project to reconstruct the portion of Highway 10 near Weyawega which has been the site of several fatal accidents. As the following

Members, Joint Committee on Finance December 10, 1996 Page 3

table indicates, even with the additional federal funds, overall funding for major highway development is expected to decrease in FY 97.

Major Highway Program (in millions of \$)

	SEG	Federal	Bonding	Total
1995	\$6.4	\$61.7	\$93.1	\$161.2
1996	\$6.4	\$50.6	\$108.5	\$165.5
1997*	\$10.5	\$40.9	\$110.5	\$161.9
*includes	\$7.6 million	in additional j	federal funds	

DOT is requesting that the balance of the additional federal funds (\$5.4 million) be allocated to state highway rehabilitation. Any additional funding (over \$327 million) would also be allocated to rehabilitation. DOT's long range planning project, Translinks 21, identified \$61.6 million in additional annual highway rehabilitation needs for the state's multilane backbone system and \$20.8 million in rehabilitation needs for non-backbone routes.

The following table illustrates that even with the additional federal funding, state highway rehabilitation is expected to increase only .6% in FY 97.

State Highway Rehabilitation Program (in millions of \$)

	SEG	Federal	Total
1995	\$206.4	\$183.6	\$390.0
1996	\$220.5	\$183.0	\$403.5
1997*	\$217.4	\$188.5	\$405.9
*includes	\$5.4 million in	additional federa	al funds

Recommendation

Approve the request.

Prepared by: Doug Percy

266-1039



Wisconsin Department of Transportation

Tommy G. Thompson Governor

Charles H. Thompson Secretary

OFFICE OF THE SECRETARY P. O. Box 7910 Madison, WI 53707-7910

December 2, 1996

The Honorable Brian Burke Wisconsin State Senate 100 North Hamilton P.O. Box 7882, Rm 302 Madison, WI 53707-7882

The Honorable Ben Brancel Wisconsin State Assembly 19 Martin Luther King Jr. Blvd P.O. Box 8952, Rm LL2 Madison, WI 53707-8952

Dear Senator Burke and Representative Brancel:

Request

Section 9155 (2u) of 1995 Act 113 requires the Department of Transportation to submit to the Joint Committee on Finance a plan identifying how the Department proposes to adjust its appropriations for state fiscal year 1996-97 to reflect actual federal aid levels to be received during that period. Section 9155 (2u) also provides that changes to federal appropriations may not be implemented until the Joint Finance Committee approves the modification.

As a result of administrative debate at the federal level, the Federal Highway Administration has not yet provided notice to the states of federal highway aid distributions for FFY 97. FHWA hopes to be able to provide the actual aid amounts by mid-December.

However, from other sources, the Department has information showing the probable lower limit for Wisconsin. Using this amount as a floor, the Department requests, under section 9155 (2u), the following adjustments to reflect a level of federal highway aid that is \$13,000,000 higher (or more) than the amount projected for FY 97 in Act 113:

- 1) + \$7,600,000 to appropriation s. 395 (3) (bx), the federal appropriation for major highway development, to reflect the cost of accelerating one portion of a major highway project from FY 98 to FY 97.
- 2) + \$5,400,000 to appropriation s. 395 (3) (cx), the federal appropriation for state highway rehabilitation, to fund additional rehabilitation projects in FY 97. Specific project accelerations in this program cannot be identified.

Senator Brian Burke
Representative Ben Brancel
December 2, 1996
Page 2

3) To the extent the actual additional amount exceeds the \$13,000,000 estimate, the Department would adjust the STH rehabilitation program using the Department's routine authority to manage variations in federal aid.

Background

Although PL 104-205, the FFY 97 federal transportation appropriations bill, was signed into law September 30, 1996, to date the Federal Highway Administration has provided states with only partial information about funding for FFY 97. Consequently, even at this point, more than two months after passage of the appropriations bill, the Department is unable to provide the Committee with a specific plan for adjusting federal aid levels in SFY 97.

At issue in Washington DC is a debate over whether the Department of the Treasury can and should make adjustments in prior year gas tax receipts, moving some receipts that had been credited to FY 95 as a result of delayed processing back to FY 94 where the actual transactions occurred. This administrative problem was recognized more than a year ago, but no corrective action was proposed until it became clear that this error would significantly impact funding distribution in FY 97, as gas tax receipts are used in calculating certain minimum funding provisions in ISTEA.

Congress had considered and rejected this year in conference committee a legislative provision to instruct FHWA to distribute FY 97 highway aids as if this delayed crediting of receipts had not occurred. However, shortly after the appropriations bill passed, the Administration began considering whether the Treasury Department could change the date of these receipts administratively. Late last week, the Treasury Department announced that its legal counsel determined that it did have the authority to address the issue administratively and said that it would do so. However, recognizing that this action would be controversial, Treasury forwarded its legal opinion to the General Accounting Office, an arm of Congress, for concurrence. Treasury asked that GAO complete its review by December 6. On Friday, November 22, FHWA announced that-assuming that GAO did concur by December 6- it would provide states with complete FY 97 funding levels by "mid-December".

Although the Department does not have official estimates from FHWA, we have received from House Public Works and Infrastructure Committee staff two sets of projections prepared by FHWA in mid-November for Committee use. These two sets of tables show what funding states would receive under two scenarios: if the proposed change is made and if the status quo prevails. We are confidant that these projections are sufficiently accurate to serve as a basis for re-estimating federal aids.

Senator Brian Burke Representative Ben Brancel December 2, 1996 Page 3

These two scenarios indicate that Wisconsin will receive between \$321 million and \$330 million in new funding in FFY 97. Combined with redistributed FFY 96 funds of \$5,876,000 already received in August, Wisconsin's projected SFY 97 total would range between \$327 million and \$336 million.

The Department's proposal uses the lower of these two numbers, but indicates what the Department would do with any additional funds up to and beyond the higher amount. Given the continuing federal uncertainty and the need to clearly establish schedules for the 1997 construction season, the Department seeks the Committee's concurrence.

Major Highway Development

The Department proposes an increase of \$7,600,000 to the appropriation under (3)(bx), bring the total to \$40,935,100.

With this additional funding, the Department expects to be able to accelerate work on a portion of the US 10 corridor project in Waupaca County. This segment was a prime candidate because it was one of a very few projects where no additional work or cost was required to move the project FY 97, and because it would accelerate an open-to-traffic segment by a full year. Accomplishing this project in FY 97 has the additional benefit of allowing the Department to move into FY 98 a project to reconstruct the portion of US 10 near Weyawega which has been the site of several fatal accidents within the past year.

STH Rehabilitation

In recognition of the fact that STH rehabilitation spending must increase to prevent the number of miles of deficient pavements from increasing dramatically in the near future, the Department proposes to use the remaining funds, whatever the amount, to supplement the Rehabilitation program. Based on the estimate of an additional \$13,000,000, this request would increase the federal appropriation under s.393 (3)(cx), in SFY 97 by \$5,400,000, to a total of \$188,488,600.

Thank you for your consideration. Please contact Jim McDonnell, Office of Policy and Budget, (608) 266-7575, if you have any questions.

Sincerely,

Charles H. Thompson

charles 1 thompson

Secretary

STATE OF WISCONSIN

SENATE CHAIR BRIAN BURKE

100 North Hamilton P.O. Box 7882 Madison, WI 53707-7882 Phone: 266-8535



ASSEMBLY CHAIR BEN BRANCEL

119 Martin Luther King Blvd.
P.O. Box 8952
Madison, WI 53708-8952
Phone: 266-7746

JOINT COMMITTEE ON FINANCE

December 4, 1996

TO:

Members

Joint Committee on Finance

FROM:

Senator Brian Burke

Representative Ben Brancel

SUBJECT: Review of Request Submitted by the Department of Transportation

Our offices have received a request from the Department of Transportation for federal appropriation adjustments, as required by 1995 Act 113. A copy of this request is attached for your review.

SECTION 9155(2u) of Act 113 required DOT to submit a request for adjustments to its federal aid appropriations within 30 days of the effective date of the applicable federal legislation for 1996-97 or by December 1, 1996, whichever was later. In its request, DOT indicates that the Federal Highway Administration has not yet provided an actual federal aid figure, due to a dispute over how certain federal gas tax receipts are credited. However, DOT indicates that the state's actual federal aid will likely be between \$327 million and \$336 million, or \$13 million to \$22 million above the estimate included in Act 113.

DOT requests approval of an allocation based on the low end of this range, with increases of \$7,600,000 and \$5,400,000, respectively, for the 1996-97 federal appropriations for major highway development and state highway rehabilitation. The Department also requests authorization to adjust the state highway rehabilitation appropriation to reflect any additional federal aid increase above \$13,000,000.

Act 113 specifies that these adjustments cannot be implemented without the approval of the Joint Committee on Finance. Accordingly, we have added this item to the agenda for the Committee's section 13.10 meeting on December 16.

BB/BB/jc Attachment



Wisconsin Department of Transportation

Tommy G. Thompson Governor

Charles H. Thompson Secretary

P. O. Box 7910 Madison, WI 53707-7910

December 2, 1996

The Honorable Brian Burke Wisconsin State Senate 100 North Hamilton P.O. Box 7882, Rm 302 Madison, WI 53707-7882

The Honorable Ben Brancel Wisconsin State Assembly 19 Martin Luther King Jr. Blvd P.O. Box 8952, Rm LL2 Madison, WI 53707-8952

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Request

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As a result of administrative debate at the federal level, the Federal Highway Administration has not yet provided notice to the states of federal highway aid distributions for FFY 97. FHWA hopes to be able to provide the actual aid amounts by mid-December.

However, from other sources, the Department has information showing the probable lower limit for Wisconsin. Using this amount as a floor, the Department requests, under section 9155 (2u), the following adjustments to reflect a level of federal highway aid that is \$13,000,000 higher (or more) than the amount projected for FY 97 in Act 113:

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Senator Brian Burke Representative Ben Brancel December 2, 1996 Page 2

3) To the extent the actual additional amount exceeds the \$13,000,000 estimate, the Department would adjust the STH rehabilitation program using the Department's routine authority to manage variations in federal aid.

Background

Although PL 104-205, the FFY 97 federal transportation appropriations bill, was signed into law September 30, 1996, to date the Federal Highway Administration has provided states with only partial information about funding for FFY 97. Consequently, even at this point, more than two months after passage of the appropriations bill, the Department is unable to provide the Committee with a specific plan for adjusting federal aid levels in SFY 97.

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Congress had considered and rejected this year in conference committee a legislative provision to instruct FHWA to distribute FY 97 highway aids as if this delayed crediting of receipts had not occurred. However, shortly after the appropriations bill passed, the Administration began considering whether the Treasury Department could change the date of these receipts administratively. Late last week, the Treasury Department announced that its legal counsel determined that it did have the authority to address the issue administratively and said that it would do so. However, recognizing that this action would be controversial, Treasury forwarded its legal opinion to the General Accounting Office, an arm of Congress, for concurrence. Treasury asked that GAO complete its review by December 6. On Friday, November 22, FHWA announced that-assuming that GAO did concur by December 6- it would provide states with complete FY 97 funding levels by "mid-December".

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Senator Brian Burke Representative Ben Brancel December 2, 1996 Page 3

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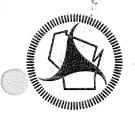
Thank you for your consideration. Please contact Jim McDonnell, Office of Policy and Budget, (608) 266-7575, if you have any questions.

Sincerely,

Charles H. Thompson

Charles Withousson

Secretary



Wisconsin Department of Transportation

Tommy G. Thompson Governor

Charles H. Thompson Secretary OFFICE OF THE SECRETARY P. O. Box 7910 Madison, WI 53707-7910

December 2, 1996

The Honorable Brian Burke Wisconsin State Senate 100 North Hamilton P.O. Box 7882, Rm 302 Madison, WI 53707-7882

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Senator Brian Burke Representative Ben Brancel December 2, 1996 Page 2

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Senator Brian Burke Representative Ben Brancel December 2, 1996 Page 3

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Thank you for your consideration. Please contact Jim McDonnell, Office of Policy and Budget, (608) 266-7575, if you have any questions.

Sincerely,

Charles H. Thompson

Charles W

Secretary

STATE OF WISCONSIN

SENATE CHAIR BRIAN BURKE

100 North Hamilton P.O. Box 7882 Madison, WI 53707-7882 Phone: 266-8535



ASSEMBLY CHAIR BEN BRANCEL

119 Martin Luther King Blvd.
P.O. Box 8952
Madison, WI 53708-8952
Phone: 266-7746

JOINT COMMITTEE ON FINANCE

December 4, 1996

Secretary Charles Thompson Department of Transportation 4802 Sheboygan Avenue Madison, WI 53705

Dear Secretary Thompson:

The Joint Committee on Finance is currently considering the Department's request for changes to federal aid appropriations to reflect anticipated federal aid levels. As part of our review of this request, it has come to our attention that the Department has estimated that there will be a \$5 million negative balance in the transportation fund at the close of the current fiscal year.

In order for the Committee to make any decision regarding the Department's federal appropriations, it is important to have more information regarding the potential for changes to the Department's SEG appropriations. Therefore, we are asking that you provide the Committee with your recommendations regarding how to deal with the projected transportation fund deficit, including an identification of any SEG appropriations that may be affected.

We ask that you provide this information to us by Tuesday, December 10th.

BRIAN BURKE

Senate Chair

Sincerely

BEN BRANCEL Assembly Chair

BB/BB/jc

cc: Members, Joint Committee on Finance

Richard Chandler

Bob Lang

STATE OF WISCONSIN

SENATE CHAIR **BPIAN BURKE**

Room 302H P.O. Box 7882 Madison, WI 53707–7882 Phone: (608)266–8535



ASSEMBLY CHAIR BEN BRANCEL

LL2, 119 Martin Luther King Jr. Blvd. P.O. Box 8952 Madison, WI 53708–8952

Phone: 608-266-7746

JOINT COMMITTEE ON FINANCE

MEMORANDUM

To:

Members

Joint Committee on Finance

From:

Senator Brian Burke

Representative Ben Brancel

Co-Chairs, Joint Committee on Finance

Date:

December 11, 1996

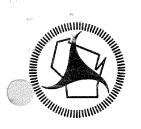
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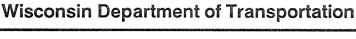
Department of Transportation's Projected \$5 Million Transportation Fund Shortfall

Attached is a copy of a letter from Secretary Charles Thompson regarding the Department of Transportation's estimated \$5 million negative balance in the transportation fund at the close of the current fiscal year. In a December 4, 1996 letter to Secretary Thompson from the Co-Chairs, we requested that the Department provide the Committee with their recommendations concerning how to deal with the projected fund deficit.

This information is intended to assist us in our consideration of the Department's request for changes to federal aid appropriations to reflect anticipated federal aid levels. The information is for your review only. No action regarding the shortfall is required by the Committee at this time. However, the Committee will consider the Department's request for federal appropriation adjustments, as required by Section 9155 (2u) of 1995 Act 113, at the December 16, 1996, section 13.10 meeting.

BB:BB:jc





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Tommy G. Thompson Governor

Charles H. Thompson Secretary OFFICE OF THE SECRETARY P. O. Box 7910 Madison, WI 53707-7910

December 10, 1996

The Honorable Brian Burke Wisconsin State Senate 100 North Hamilton P.O. Box 7882, Room 302 Madison, WI 53707-7882 The Honorable Ben Brancel Wisconsin State Assembly 19 Martin Luther King Jr. Blvd. P.O. Box 8952, Room LL2 Madison, WI 53707-8952

Dear Senator Burke and Representative Brancel:

You asked that I provide additional information regarding the Department's projected \$5 million transportation fund shortfall for the current fiscal year, and provide my recommendation to deal with the projected fund shortfall.

As you recall, when the Department submitted its 1997-99 biennial budget request in September, we identified a potential \$11.3 million FY97 transportation fund shortfall. We indicated that we would take action, if necessary, to resolve the shortfall in this fiscal year. Considering that course of action, we estimated the opening balance of the transportation fund for the 1997-99 biennium at zero.

Since mid-September we have continued to monitor revenues and expenditures. Based on revenue collection data to date, it now appears that the shortfall will be \$3.9 million instead of \$11.3 million. The potential shortfall represents four-tenths of one percent of the revenues estimated for collection in this fiscal year, which is well within the range of normal fluctuations that can occur within a fiscal year.

Consequently, our strategy continues to be to monitor the revenues closely and delay any actions to correct the shortfall until later in the fiscal year. It is possible, based on normal fluctuations from projections, that future revenues may offset the remaining shortfall. In which case, no action would be necessary. On the other hand, it is also possible that future revenue collections will be less than currently projected. This also argues for postponing action until later in the fiscal year, so that any shortfall can be addressed once, rather than twice or more as normal fluctuations occur during the fiscal year.

If action to resolve a shortfall proves to be necessary, I strongly recommend that the best means of resolving the shortfall would be to reduce the state highway rehabilitation program by the required amount near the end of the fiscal year. If the appropriation were reduced, a small number of projects scheduled for construction this summer would be delayed by one month (from June, the final month of FY97, to July, the first month of FY98). Because the state highway rehabilitation appropriation is a continuing appropriation, which does not lapse funds, the Joint

Senator Brian Burke Representative Ben Brancel December 10, 1996 Page 2

Committee on Finance would have to act under s.13.10 of the statutes to reduce the appropriation.

The state highway rehabilitation appropriation is suggested because it has the greatest flexibility in terms of making a late-in-the-year adjustment. However, preservation of the state highway system is an important priority. Therefore, if such an action does become necessary, I would also urge you to replace those decreased funds in the 1997-99 biennial budget to maintain the overall program level in the rehabilitation program.

Sincerely,

Charles H. Thompson

Secretary



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

December 16, 1996

TO:

Senator Brian Burke

Room 302, 100 North Hamilton

FROM:

Jon WeaverDyck, Fiscal Analyst

SUBJECT: Project Rationale for the USH 10 Project in DOT's s. 13.10 Request

At your request, I am responding to your inquiry on the project rationale for the USH 10 project that would be accelerated under the s. 13.10 request submitted by the Department of Transportation. Included in this discussion is a list of rehabilitation projects which are tentatively scheduled for letting. You also asked whether the entire \$7.6 million requested would be used for this project.

The Legislative Fiscal Bureau memorandum to the Joint Committee on Finance describing DOT's 13.10 request outlines the reasons why the segment of USH 10 in question is the only major project which could be opened to traffic earlier if additional federal aid were allocated to the program in the current fiscal year. Using additional federal funds for the major highway development program would continue a policy advanced by the Department in its s. 13.10 request for federal fiscal year 1996. In both cases, this action reflects an attempt to replace funds in the program that had the greatest absolute reduction in federal funds under Act 113 (-\$50.7 million over the 1995-97 biennium).

The rationale for the major highway project on USH 10 from Waupaca to Fremont can be found in the environmental impact statement (EIS) for the project. The EIS states three major reasons for completing the project: traffic volume, its commercial importance and safety.

Traffic volume: Current traffic volume between Waupaca and Fremont ranges roughly from 8,000 to 13,000 vehicles per day. (This entire 15-mile segment is scheduled for improvement, although the project referred to in the s. 13.10 request covers only a five-mile portion.) By the year 2017, traffic is projected to range between 11,800 and 18,600 vehicles per day. According to the study, the traffic volume that can be safely handled on a highway like this is 7,000 vehicles per day.

Commercial value: To illustrate its importance to commerce, the study states that commercial trucks make up 17% of traffic on the segment.

Safety: The study notes that the segment has traffic fatality rates of three times the statewide average. Since the beginning of 1996, eight people have been killed on USH 10 between Waupaca and Fremont, including three at the intersection of CTH X at Weyauwega. The CTH X intersection will be grade-separated after the construction, but not until the second leg of the project. The current request would allow acceleration of a portion between Waupaca and CTH X, but this would allow the acceleration by a full year of the letting date for the second segment, which includes the CTH X intersection. It should be noted that the fatality rates for this year are much higher than normal.

I have attached a list, provided by DOT, of projects scheduled to be let between now and the end of the fiscal year. Projects funded under the rehabilitation appropriation are identified as 3R, State Bridges or 14R. There are more projects scheduled here than there is funding available. The Department expects, however, that some of these will not be ready because of delays in the design process. Others which will be ready may need to be moved to FY 1998 because of a lack of funding. Crediting additional federal funds to the rehabilitation appropriation would allow more of these projects to be funded in the current fiscal year.

The Department has indicated that the request for a \$7.6 million increase for the major highway program reflects the projected contract cost of moving the USH 10 project into the current fiscal year. Additional costs related to the project, such as construction engineering, would be provided within DOT's current budget.

I hope this information is helpful. Please contact me if you have further questions.

JWD/dls Attachment

	Master Contract Schedule All LET Projects	January thru June 1997 Lettings	Description (DBO II NO.)				VY FHASE 2 VY EAST OF STH 16 NEAR CTH B		·	Ī	·						B-2/-96/, 3.3 MILES NORTH OF STH 95			_			LOCAL KNIGHT ROAD			FORESTVIEW CT - ONEIDA STREET		(CTH C - STH 49)	(ABBOTSFORD - MARATHON CITY)		(WAUPUN PRISON WETLAND MITIGATION)	(6TH AVENUE WEST INTERCHANGE)
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03	1997/03/18	25	9056-01-71	S	回	MARINETTE		BEAVER CREEK BRIDGE AND APPROACHES
03	1997/03/18	25	9188-03-71	MC	回	MARINETTE		BUNDY CREEK BRIDGE AND APPROACHES
03	1997/03/18	22	9345-01-71	S	回	MARINETTE		TROUT CREEK BRIDGE & APPROACHES
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8	1997/03/18	22	9490-06-71	0	回	MARATHON	၁၀၂	W.FORK LITTLE RIB RIVER
8	1997/03/18	25	9516-00-72	<u>o</u>	旧	MARATHON	700 100	TOWN OF HARRISON
8	1997/03/18	25	9528-08-71	<u>o</u>	E	MARATHON		E.BR. BIG SANDY CREEK CROSSING
02	1997/03/18	25	5045-09-71		回	RICHLAND	TWN RD	P-52-902, 1.3 MILES SOUTH OF CTH A
02	1997/03/18	22	5358-08-71		田	RICHLAND		P-52-168, 1 MILE NORTH OF CTH E
02	1997/03/18	22	5367-06-71		田	RICHLAND	. 75	P-52-960, 1 MILE SOUTH OF CTH U
02	1997/03/18	22	7276-05-71		田	TREMPEALEAU	177	P-61-164, 1.1 MILES WEST OF STH 93
90	1997/03/18	22	8900-06-73		田	TAYLOR		SILVER CREEK BRIDGE: 8-60-0005
98	1997/03/18	22	8374-02-71		旧	BURNETT	JWN RD	TOWN OF SIREN
80	1997/03/18	22	8385-03-71		LET	DOUGLAS	NAT.	2.8 MI W STH 35 ON KINGSDALE RD
80	1997/03/18	22	8385-04-71		回	DOUGLAS	₹ K	1.7 MI W OF STH 35 ON KINGSLANDRD
80	1997/03/18	25	8391-02-71	ರ	LET	DOUGLAS	N.	1.6 MI N OF CTHV SWAMP ROAD
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80	1997/03/18	25	8394-02-71		回	DOUGLAS		.7 MI W OF STH 35, CHAFFEY FOXBORO
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Master Contract Schedule All LET Projects January thru June 1997 I effings		Description (PROJLN2)	LAKE FIELD DR TO LINCOLN	STH 11 TO FOX RIVER		CITY OF APPLETON (CHANNELIZATION)	RICHMOND STREET - MEANE STREET	STH 32 - NORTH CORPORATE I IMITS	STH 47 - E CITY LIMITS	SOUTH 14TH STREET-NORTH 7TH STREET	ALECKSON & WORTMAN RD NEI Y 1 8 M	WEST COUNTY LINE - STH 37	SAWYER ST (CTH C) AT RICE LK BR	CTHH	СТНА			(CIR VINIERSECTION)	(WADISON STREET - CITY)	(ILLINOIS STATE LINE - EMERSON ST)	(SIAIE SIKEEI - PLEASANI SIKEEI)	(STH 33 - NORTH COUNTY LINE)	DISTRICT WIDE PROGRAM/NHS/	STH 151 - SO, VILL, ROSENDALE I IM	PROFILE CNABGE N OF WILLOW CREEK RD	ARCADE RD - UNION ST	WEST CITY LIMITS - ARCADE ROAD	SLINGER TO CTH K	COLLEGE AVE. TO LAYTON AVE	CTH J TO WSOR RR	STH 36 TO CTH D***DBE DEMO***	STH 32 - 29TH STREET	GREEN BAY - DYCKESVILLE ROAD	WCL - DUNBAR
Master Contract Schedule All LET Projects uary thru June 1997 I effir		Highway	LOC STR			1. 11						CTH Z	၁၀၂	CTH			. I.	20 C		10 HOD							STH 23			STH 167		Ţ.,		USH 008
Ma		County	MILWAUKEE	RACINE	MANITOWOC	OUTAGAMIE	OUTAGAMIE	BROWN	WINNEBAGO	SHEBOYGAN	JACKSON	EAU CLAIRE	BARRON	BURNETT	BURNETT		ובבבבססאו	IEEEEDSON		X X X X X X X X X X X X X X X X X X X	ANE THE	COLUMBIA	MILWAUKEE	FOND DU LAC	FOND DU LAC	FOND DU LAC	FOND DU LAC	WASHINGTON	MILWAUKEE	WASHINGTON	RACINE	SHEBOYGAN	BROWN	MARINETTE
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	Master Contract Schedule All LET Projects	January thru June 1997 Lettings		Description (PROJLN2)	VIII AGE OF DIE AGVI		STUMP ROAD - HIXEMBIRG	VILLAGE OF LIXEMBIRG	MILL ST - SUHRKE RD	PROSPECT ST - MILL ST		STH 47 - SPRUCE ST. INTERSECTION	PLEASANT LANE - COUNTRY CLUB RD	STH 33/82-ELROY STREET	ELROY	UNION CENTER	FR STH 131 READSTOWN ELY 5.63 MILES	VERNON CO LN ELY TO STH 171@ BOAZ	RADIO LANE NLY TO .18 M S STH 179	WISCONSIN TRAVEL INFORMATION CENTER	MONTREAL - HURLEY, MONTREAL CITY	HURLEY UTILITIES	MONTREAL UTILITIES	0.32 KM W OF CTH B TO ECL	REDCLIFF AT INT BLUEBERRY RD - CTHK	ARLINGTON AVE - USH 8	FR WASHBURN 11.1 MI NORTH		(TURTI E CREEK BRIDGE)	STRUCTURE B-20-121 AND APPROACHES	WIND LAKE DRAINAGE BRIDGE			SCHOOL CREEK BRIDGES (3)	CITY OF APPLETON	BRIDGE REPLACEMENTS
C	er contract scin All LET Projects	thru Jun		Highway	CTH 032								STH 054	STH 80		STH 80		USH 14	STH 27	INT 94			STH 77		STH 13	STH 46	STH 13		USH 51					STH 054		
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		Ja		County	BROWN	BROWN	KEWAUNEE	KEWAUNEE	SHEBOYGAN	SHEBOYGAN	OUTAGAMIE	OUTAGAMIE	BROWN	JUNEAU	JUNEAU	JUNEAU	VERNON	RICHLAND	CRAWFORD	ST. CROIX	IRON	IRON	IRON	RUSK	BAYFIELD	POLK	BAYFIELD		ROCK	FOND DU LAC	RACINE	BROWN	BROWN	KEWAUNEE	OUTAGAMIE	JUNEAU
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Master Contract Schedule All LET Projects	January thru June 1997 Lettings	Description (PROJLN2)	.06 MI S OF JUNCTION STH 77	1.8 MI S OF VILL OF GLIDDEN 1.8 MI S OF VILL OF GLIDDEN	1 MI S OF STH 105 NEAR CLAM LAKE	1.7 MI W OF CTH S	LOCATED ON CENTER SPAN OF BRIDGE	CTH KK BRIDGE ST CROIX RIVER - CARMICHAEL ROAD	CTH F - CTH B	MARCH 18, 1997 LETTING
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Ž		County	ASHLAND ASHI AND	ASHLAND	DOUGLAS ASHLAND	SAWYER		SHEBOYGAN ST. CROIX	BROWN	
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Description (PROJLN2)			(BELD ST - JOHN NO! FN DR)	(ORCHARD ST - REID ST)	F.IOHNSON-N THORNTON AVE	INTERCHANGE AREA RIKE DATH (DIS)	AND PACKERS AVENUE - SHOPKO DRIVE			VILLAGE OF JOHNSON CREEK	(BARAROO RIVER RRINGE & ADDS)	REHAR RRIDGE OVER MILIMALIKEE BIVED	S 16TH ST - S MISKEGO AVE	KIII SNAKE RIVER BRIDGE & ADDR	MANITOWOC RIVER BRIDGE & APPROACHES	PENSAUKEE RIVER BRIDGE & APPROACHES	KELLY BROOK BRIDGE & APPROACHES	N. BRANCH PEMEBONWON R. BR. & APP	PESHTIGO RIVER FLOWAGE BR & APPR	N. BRANCH PIKE RIVER BRIDGE & APP	N. BRANCH PIKE RIVER BR. & APPR.	MOUNTAIN BAYTRAIL CULVERT AND APPR.	CNW RAILROAD CROSSING	WALLA WALLA CREEK CROSSING	P-62-963, .1 MILE SOUTH OF CTH I	B-27-968. 2 MILE WEST OF STH 54	P-41-22. 2 MILE SOUTH OF CTH II	P-27-942. 2 MILE EAST OF CTH N	B-27-399, 1.2 MILES WEST OF CTH H	BLACK RIVER BRIDGE:B-60-0011	PINE CREEK BRIDGE: 8-60-0046	LITTLE BLACK RIVER BRIDGE:B-60-0078
Highway			NON HWY					84 1 M - 2 E -		1 LOC -					≻ H.S	JWN RD		CTH O		TWN RD			207	၁	CTH		CTH B		CTH	CTH T	CTH A	TWN RD
Type County			LET DANE	ET DANE		LET DANE			ET JEEGEBOON					•	LET CALUMET	ET OCONTO	ET OCONTO	LET MARINETTE			LET MARINETTE	LET BROWN		LET WAUPACA	LET VERNON	LET JACKSON	LET MONROE	ET JACKSON	ET JACKSON	ET TAYLOR		ET TAYLOR
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Mas	Januar		e County	TAYLOR				TAYLOR			BARRON	DOUGLAS	DOUGLAS	BARRON	ASHLAND		DANE	ROCK	ROCK	DANE	MILWAUKEE	OZAUKEE	CALUMET	BROWN	BROWN	MARINETTE	MOOD	VEKNON	CKAWFORD	LA CROSSE		ST CBOIX	ST CROIX	SAWYER
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	Master Contract Schedule All LET Projects	January thru June 1997 Lettings	Description (PROJLN2)	0 15 MIN OF STH 13	CTHH		SAFETY REST AREA #18	(USH 151 INTERCHANGE AREA)	(MONROE STREET - USH 151)	(USH 151 INTERCHANGE AREA)	(CATHERINE STREET - RIVER ROAD)	(STH 19 - CTH V)	(HELLENBRAND ROAD INTERSECTION)	(STH 81 INTERSECTION)	METRO CENTER (GOOD HOPE INTER.)	N JCT USH 8 - S CORP LIMITS NIAGARA	S CORP L NIAGARA - MICH STATE LINE	RA #54,6.2 MILES WEST OF MILLSTON	FR 26 TH ST TO EAST CORP. LIMITS	EDOM STU 88 EASTED! V TO STH 37	FROTH VEASTERS VIOLENDE	CTH O INTERSECTION	USH 51 - NORTH COUNTY LINE	TOWN OF WOODRUFF	LAURITSEN SITE		(MAIN STREET LINDERDACE)	(B) ACK FARTH CREEK BRIDGE)	(WILSON CREEK&VALLEY CREEK BRIDGES)	E BRANCH MILW RVR BRDG & APPROACHES	B-32-67.BN R/R UNDER. 7 MI N I-90	B-61-52, 38 MILE NORTH OF CTH VV	B-06-924,1.5 MILES NORTH OF CTH O	
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	Š		County	BAYFIELD	BAYFIELD		ROCK	DODGE	DODGE	DODGE	GRANT	DANE	DANE	ROCK	MILWAUKEE	MAKINELIE	MARINETTE	JACKSON	LA CROSSE	BUFFALO	TREMPEAL FAU	DUNN	ONEIDA	ONEIDA	BURNETT		DANE	DANE	SAUK	WASHINGTON	LA CROSSE	TREMPEALEAU	BUFFALO	
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)	CTH AB OVERBASS	(CITION OVERTAGO)	VANIOUS BRIDGES, JAINES VILLE AREA	(CIT IN OVERPASS)	(CITH MIN UNDERPASS)	CHURCH STREET OVERPASS) B-13-144	134 BAIDGE OVER BIR & WASHINGTON	(OVER 1-90)	B-27-36,25,B-41-28,26,35	B-27-37,38 B-41-74,75		NABIOLI SI JOIRAN	VARIOUS CITATION OF THE PROPERTY OF THE PROPER	VADIOUS DISTANCES		DANGMENT 41, 60, 100, 181	DISTRICT MARKING	TO SOLD STREET	FOLSOM SIREEI - SIH 124
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APRIL 15, 1997 LETTIN

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Master Contract Schedule All LET Projects		Description (PROJLN2)			•	DOWN OF COLD SPRING		STR TMIN BRIDGES OVER PIGEON CREEK									_					•		W PARKVIEW UR - GRANGE AVE	-								USH 63 TO OLD CTH D SOUTH
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MAY 20, 1997 LETTIN

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Master Contract Schedule All LET Projects	January thru June 1997 Lettings		Description (PROJLN2)	TOWNLINE RD -E. JCT. STH 73				7				RR BRIDGE (CP RAIL)					STADILIM INTERCHANGE RRIDGE REHAR		
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JUNE 17, 1997 LETTII



WISCONSIN STATE SENATE

P.O. Box 7882 • Madison, WI 53707-7882

December 16, 1996

Senator Brian Burke, Co-Chair Joint Committee on Finance Room 302 100 N. Hamilton

Dear Senator Burke:

Re:

12/16/96 Section 13.10 Request for Federal Appropriation Adjustments -

Transportation

It's my understanding members of the Joint Committee on Finance will be asked today to approve an increase in the federal appropriation for major highway development and for state highway rehabilitation to reflect anticipated aid greater than budgeted amounts. I'm writing to request that \$1,000,000 of these funds be specifically earmarked for the state's Transportation Enhancements Program.

At the request of Department of Transportation Secretary Charles Thompson, I served as Chair of the state's Transportation Enhancements Selection Committee over the course of the past several years. In this role, I became very familiar with the outstanding contributions this program has made to communities throughout Wisconsin. Unfortunately, Wisconsin has not been able to fund this program to the same degree as many other states and many deserving projects have gone unfunded for several years.

I appreciate the need for continued funding of state highway projects. However, I also believe an additional \$1 million appropriation for the Enhancements Program is needed as well and will go a long way to address less than anticipated funding levels in recent years. Wisconsin ranks very low nationwide in the number of projects funded through the Enhancements Program and this funding request is the perfect opportunity to address past funding problems in this deserving program.

I have worked closely with Senator Burke in this regard and I strongly support his efforts to increase appropriations to the Enhancements Program.

Best regards,

BRIAN RUDE

State Senator

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DEC-13-1996 16:17 FROM

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TO: 6082667038 TN

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WISCONSIN LABORERS' DISTRICT COUNCIL

AFFILIATED WITH A.F.L.-C.I.O.
LABORERS' INTERNATIONAL UNION OF NORTH AMERICA 2801 COHO STREET. SUITE 202 . MADISON. WI SCONSIN 53713 PHONE (608) 274-5757 • FAX (608) 274-5707 - (800) 782-4634

MICHAEL R. RYAN PRESIDENT/ BUSINESS MANAGER

WILLIAM E. JOHNSON VICE-PRESIDENT

THOMAS E. FISHER SEC-TREAS. REC. SECT

December 13, 1996

Senator Brian Burke State Capitol Madison, WI 53708

Dear Senator Burke:

I am writing to register our support of the Wisconsin DOT's request to increase appropriations for 1996-97 major highway development of \$7.6 million and state highway rehabilitation of \$5.4 million. We also support the department's request to credit any additional amounts of federal aid to the state highway rehabilitation appropriation.

As you know, FY 1997 funding for major projects is, in real terms, nearly 20% below FY 1995 base levels. Similarly, FY 1997 STH Rehabilitation is 3% below base levels - a figure deceptively small since it includes funding for Milwaukee Freeway. As expected, under funding of both of these programs is resulting in a growing gap between the time projects are enumerated and the time they are completed, as well as increasing the frequency of delayed projects.

Clearly, the department's request to increase funding at this time is consistent with the intent of the legislature when, because of insufficient funding levels, it reduced appropriations in both the majors and rehabilitation programs, and then directed the department to issue an allocation request in the event additional federal funding became available.

It is important that the Joint Finance Committee recognize that the unanticipated federal funding is an opportunity to help reverse this under funding trend. It is equally important that the committee not hold family supporting jobs or the publics safety hostage, by speculating beyond the department's request, over insignificant deficit numbers or how better to spend additional federal funds.

Thank you for this opportunity to comment on this important issue to construction craft laborers.

Sincerely.

Michael R. Ryan President/Business Manager

MRR/jo

WIMMER & COMPANY, S.C.

22 NORTH CARROLL STREET SUITE 200 MADISON, WI 53703

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Wisconsin Road Builders Assn.

2 E. MIFFLIN ST., SUITE 703, MADISON, WISCONSIN 53703 • TEL. 608/256-6891

TEL. 608/256-6891 FAX: 608/256-1670



DATE:

December 11, 1996

TO:

Senator Brian Burke

FROM:

Tom Walker, Executive Director, WRBA

RE:

WisDOT Request for JFC Approval of Plan to Appropriate

Unanticipated FY 97 Federal Highway Funds

We are asking your support for the WisDOT plan, submitted on December 2.

In the 1995 Budget, the Legislature understood the uncertainty of federal highway funds for FY 96 and 97, and that some increases were likely. In response, it directed WisDOT to submit a plan to allocate those dollars once final funding levels were known.

We now know that WisDOT will receive at least \$13 million more in federal highway funding in FY 1997, than the Legislature scheduled in the 1995 Budget.

We believe that approving this request is consistent with Legislative intent in the 1995 Budget, when both appropriations were reduced below previous program levels, despite demonstrated needs, due to insufficient funds.

- * The FY level of funding for major projects is almost 20% below the base level approved in FY 95, in constant dollars. As a result, many already enumerated projects have been significantly delayed statewide.
- * The FY 97 Budget for STH Rehabilitation is 3% below base FY levels. Some of that reduced funding is allocated to new program costs in the East-West Corridor. As a result, the statewide rehabilitation program has fallen even further below historic levels, causing project delays.
- * WRBA is further requesting that the Committee clarify that this increased level of federal aid be reflected in the <u>base Major Projects</u> and Rehabilitation appropriations for FY 1997.

Finally, WRBA is asking Committee approval of the WisDOT plan to allocate any further federal highway funds received by Wisconsin, once the current formula dispute is settled.

Thank you for the opportunity to comment.

PRESIDENT STEVE MATHY Onalaska

VICE PRESIDENT HARLOW JAMES Fennimore

SECRETARY MIKE ZIGNEGO Waukesha

TREASURER BILL KAHL Middleton

DIRECTORS: KURT BECHTHOLD TOM BRAUN MIKE DUCKETT JIM HOFFMAN HARLOW JAMES BILL KAHL ROBERT KENNEDY JR E KRAEMER INE KRAUT SE MAPLES STEVE MATHY SCOTT PIEFER **GARY RUZIC** E.J. STREU **HENRY TIMME** MIKE ZIGNEGO

EXECUTIVE DIRECTOR TOM WALKER

DEPUTY EXECUTIVE DIRECTOR JACK M. ARSENEAU

MO# Conclusion



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608)

GEORGE DECKER JAUCH WINEKE WEEDEN COWLES BRANCEL FOTI **SCHNEIDERS**

Z BURKE

ANDREA

December 16, 199

OURADA HARSDORF PORTER LINTON COGGS

TO:

Members

Joint Committee on Finance

FROM:

Bob Lang, Director

AYE 13 NO 0 ABS 3

SUBJECT: Public Defender--Section 13.10 Request for Transfer of \$960,500 GPR Between

Appropriations in 1996-97--Agenda Item II

The Public Defender requests the transfer of \$896,800 from salaries and fringe benefits and \$53,800 from supplies and services to the private bar appropriation to offset a projected 1995-97 deficit of \$3,956,600 in that appropriation.

BACKGROUND

The Office of the State Public Defender (SPD) has staff attorneys to provide defense to indigent persons charged with certain crimes. These staff attorneys handle a statutorily set number of cases each year. Because the number of cases requiring Public Defender representation exceeds the number that staff attorneys are able to handle, the Public Defender appoints private counsel to represent the remaining defendants. Private attorneys are paid in two ways: (1) at an hourly rate of \$40 per hour, except for certain travel time which is reimbursed at \$25 per hour or (2) a flat, per case contracted amount.

Under 1995 Act 27 (the biennial budget bill), funding for private bar attorneys was reduced from \$52.5 million GPR in 1993-95 to \$46.9 million in 1995-97, \$7.5 million of which comes from a newly-created program revenue appropriation funded by client collections. This level of funding represents an almost 11% reduction in overall funding for private attorneys from the 1993-95 biennium and a 25% reduction in GPR.

The reduced level of funding resulted from efforts enacted in Act 27 to offset the increasing costs of indigent defense including: (a) increasing staff attorneys' statutory caseload levels; (b) collecting payments from clients for the cost of their representation; (c) eliminating the statutory right to representation in certain cases; (d) creating a flat, \$40 per hour payment rate for private counsel; (e) requiring flat rate contracts with private attorneys to handle a portion of cases; (f) verifying eligibility of clients; and (g) providing paralegal and regional administrator positions to relieve staff attorneys of nonattorney workload.

ANALYSIS

Based on the most recent available data, through October 31, 1996, the Public Defender now projects a deficit of \$3,746,000 in the private bar appropriation. The Public Defender is required to pay bills submitted by private attorneys within four months of the date that the office receives them, and bills not paid within four months are subject to interest of 12% compounded monthly. The private bar appropriation is budgeted to pay bills received though March 31 of the second year of the biennium. Currently, the Public Defender is paying bills at a rate of \$1.4 million per month. Therefore, a \$3.7 million deficit would result in the Public Defender ceasing to pay private bar bills received after mid-January, rather than March. The \$3.7 million projection is based on the following:

	Act 27 Budgeted Savings	SPD Estimated Savings	<u>Difference</u>
Collections	\$7,503,300	\$1,858,500	\$5,644,800
Contracts	Q	-1,531,700	1,531,700
Increased Staff Caseload			
Levels	7,458,700	5,961,400	1,497,300
1993-95 Caseload Increases	0	-410,800	410,800
1995-97 Caseload Decreases	0	4,142,000	-4,142,000
Changes in Jurisdiction	3,895,800	4,231,900	-336,100
June, s.13.10 Transfer	0	860,500	860,500
Total	\$18,857,800	\$15,111,800	\$3,746,000

As shown above, the largest component of the deficit (\$5,644,800) is collections from clients. Under the 1995-97 biennial budget bill, the Governor included program revenue of \$11.2 million from collections from Public Defender clients to offset general purpose revenue private bar payments. The Legislature reduced this to \$7.5 million based on estimates from the Public Defender and information from a Legislative Audit Bureau report on collections in other states. While collections may improve over the next few months, they will not reach the level originally budgeted to offset the GPR budget reductions.

The next component of the deficit (\$1,531,700) results from the way in which payments to attorneys under contract are made. Attorneys under contract are paid every two months based

on the number of cases opened. Attorneys who are appointed on a case-by-case basis are paid at the close of the case after they submit their bill (typically four to six months after the case is opened). As a result, while contracted cases ultimately result in lower costs to the office, the payment of those cases is shifted four to six months ahead of when they would have been paid without contracts.

According to the Public Defender, attorney contracts were developed in consultation with DOA specialists and were set up this way so that private attorneys would be willing to enter into the contracts. While this method does add to the anticipated deficit in this biennium, savings from the reduced costs of these cases will result in the next biennium. The SPD has contracted for an estimated 13,091 misdemeanor cases in 1996-97.

The last major component of the projected deficit (\$1,497,300) is caused by staff attorneys not meeting the statutory caseload levels. This results in cases that are budgeted to be handled by staff attorneys being assigned to private attorneys. Staff attorney caseloads were increased under Act 27 with an associated savings of \$7.5 million. The Public Defender indicates that, agencywide, staff attorneys are achieving 96% of the higher statutory caseload levels.

According to the Public Defender, part of the reason staff attorneys are having difficulty meeting their caseload levels is due to 12 paralegal positions that were added under Act 27 to perform nonattorney casework. Under Act 27, it was assumed that each paralegal would perform enough work so that overall staff attorneys could achieve an additional 12 statutory caseloads. However, the Public Defender indicates that since paralegals cannot appear in court, the 12 paralegals are working at the equivalent of six statutory caseloads, rather than 12. In addition, caseload levels are based on all authorized positions; however, since the Public Defender has vacant staff attorney positions, some portion of those caseloads are assigned to private counsel.

The remaining deficit component (\$410,800) results from unexpected caseload growth in the 1993-95 biennium. The additional cases were opened in 1994-95, but the bills were not paid until 1995-96.

A portion of the unbudgeted costs listed above are offset by unexpected savings resulting from lower than estimated caseload levels in the current biennium, additional savings from jurisdictional changes included under Act 27 and salary and fringe benefit savings from vacant attorney positions. [For example, the Public Defender typically experiences increases in caseload from four to six percent each year. In 1995-96, caseload actually fell by 13%.]

Part of the reason for the lower case numbers likely results from stricter verification of income and eligibility standards included under Act 27. However, it is not known how much of the reduction is due to changes in eligibility, improved economic factors or fewer criminal charges.

The SPD estimate assumes a 2% increase in caseload for the remainder of this fiscal year. However, so far this year the number of cases opened is only .56% higher than last year. If this

continues, the projected deficit could be reduced by \$50,000 (this figure is low because the Public Defender only has a few more months of case openings for which bills will be paid in this fiscal year).

Both costs and savings are likely to change between now and the end of the year based on actual collections and caseload levels. For example, early in the biennium the SPD estimated a 1995-97 deficit of \$10.8 million. In addition, the current deficit projection of \$3.7 million is an improvement over the September estimate of \$3.9 million. However, despite the improved projections, it is likely that a deficit of considerable magnitude will require attention in the next legislative session.

At this time, the Public Defender requests a transfer of surplus funds from salaries, fringe benefits and supplies and services to offset a portion of the expected deficit. The surplus funds are related to staff attorney positions which have not been filled as quickly as in the past, or not at all. Typically, the Public Defender has a low vacancy rate for its staff attorneys. Positions are filled as quickly as possible because, generally, hiring staff attorneys is less expensive than appointing private attorneys at hourly rates.

However, as of November 11, 1996, there were 12.3 vacant staff attorney positions. The Public Defender indicates that in some offices throughout the state suc Hudson, Racine, Rhinelander and Sheboygan, caseload has not been suff the positions. In addition, in Milwaukee County where additional cases time from court delays makes it difficult for attorneys to fulfill statutory result, staff positions in Milwaukee County are not as efficient as in othe therefore, the Office does not believe that it is prudent to move additional /

A similar request was approved under s.13.10 at the Committee's J At that time a transfer of \$860,500 was made from salaries, fringe ber services to the private bar appropriation, to reduce the private bar appro

The current request includes \$896,800 in salary and fringe ben supplies and services. This \$950,600 represents two-thirds of a month c and would reduce the estimated deficit to \$2,795,400. The transfer wou payments to continue through the first week of February. The need for ad to be addressed either through: (1) a meeting under s. 13.10; or (2) sepa

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CONCLUSION

Based on the anticipated deficit in the private bar appropriation, the Public Defender's request to transfer available funds appears reasonable and, therefore, the Committee may wish to approve it.

Prepared by: Carri Jakel buch nuchion

Request 60v. submit leg. to eliminate Pub. Defender deficit by the end of this fiscal year.



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 •

Staff Recommendation: Support Conclusion

TO:

Members

Joint Committee on Finance

FROM:

Bob Lang, Director

SUBJECT: Public Defender--Section 13.10 Request for Transfer of \$960,500 GPR Between

Appropriations in 1996-97--Agenda Item II

The Public Defender requests the transfer of \$896,800 from salaries and fringe benefits and \$53,800 from supplies and services to the private bar appropriation to offset a projected 1995-97 deficit of \$3,956,600 in that appropriation.

BACKGROUND

The Office of the State Public Defender (SPD) has staff attorneys to provide defense to indigent persons charged with certain crimes. These staff attorneys handle a statutorily set number of cases each year. Because the number of cases requiring Public Defender representation exceeds the number that staff attorneys are able to handle, the Public Defender appoints private counsel to represent the remaining defendants. Private attorneys are paid in two ways: (1) at an hourly rate of \$40 per hour, except for certain travel time which is reimbursed at \$25 per hour or (2) a flat, per case contracted amount.

Under 1995 Act 27 (the biennial budget bill), funding for private bar attorneys was reduced from \$52.5 million GPR in 1993-95 to \$46.9 million in 1995-97, \$7.5 million of which comes from a newly-created program revenue appropriation funded by client collections. This level of funding represents an almost 11% reduction in overall funding for private attorneys from the 1993-95 biennium and a 25% reduction in GPR.

The reduced level of funding resulted from efforts enacted in Act 27 to offset the increasing costs of indigent defense including: (a) increasing staff attorneys' statutory caseload levels; (b) collecting payments from clients for the cost of their representation; (c) eliminating

the statutory right to representation in certain cases; (d) creating a flat, \$40 per hour payment rate for private counsel; (e) requiring flat rate contracts with private attorneys to handle a portion of cases; (f) verifying eligibility of clients; and (g) providing paralegal and regional administrator positions to relieve staff attorneys of nonattorney workload.

ANALYSIS

Based on the most recent available data, through October 31, 1996, the Public Defender now projects a deficit of \$3,746,000 in the private bar appropriation. The Public Defender is required to pay bills submitted by private attorneys within four months of the date that the office receives them, and bills not paid within four months are subject to interest of 12% compounded monthly. The private bar appropriation is budgeted to pay bills received though March 31 of the second year of the biennium. Currently, the Public Defender is paying bills at a rate of \$1.4 million per month. Therefore, a \$3.7 million deficit would result in the Public Defender ceasing to pay private bar bills received after mid-January, rather than March. The \$3.7 million projection is based on the following:

	Act 27 Budgeted Savings	SPD Estimated Savings	Difference
Collections	\$7,503,300	\$1,858,500	\$5,644,800
Contracts	0	-1,531,700	1,531,700
Increased Staff Caseload		,	
Levels	7,458,700	5,961,400	1,497,300
1993-95 Caseload Increases	0	-410,800	410,800
1995-97 Caseload Decreases	0	4,142,000	-4,142,000
Changes in Jurisdiction	3,895,800	4,231,900	-336,100
June, s.13.10 Transfer	0	<u>860,500</u>	860,500
Total	\$18,857,800	\$15,111,800	\$3,746,000

As shown above, the largest component of the deficit (\$5,644,800) is collections from clients. Under the 1995-97 biennial budget bill, the Governor included program revenue of \$11.2 million from collections from Public Defender clients to offset general purpose revenue private bar payments. The Legislature reduced this to \$7.5 million based on estimates from the Public Defender and information from a Legislative Audit Bureau report on collections in other states. While collections may improve over the next few months, they will not reach the level originally budgeted to offset the GPR budget reductions.

The next component of the deficit (\$1,531,700) results from the way in which payments to attorneys under contract are made. Attorneys under contract are paid every two months based

on the number of cases opened. Attorneys who are appointed on a case-by-case basis are paid at the close of the case after they submit their bill (typically four to six months after the case is opened). As a result, while contracted cases ultimately result in lower costs to the office, the payment of those cases is shifted four to six months ahead of when they would have been paid without contracts.

According to the Public Defender, attorney contracts were developed in consultation with DOA specialists and were set up this way so that private attorneys would be willing to enter into the contracts. While this method does add to the anticipated deficit in this biennium, savings from the reduced costs of these cases will result in the next biennium. The SPD has contracted for an estimated 13,091 misdemeanor cases in 1996-97.

The last major component of the projected deficit (\$1,497,300) is caused by staff attorneys not meeting the statutory caseload levels. This results in cases that are budgeted to be handled by staff attorneys being assigned to private attorneys. Staff attorney caseloads were increased under Act 27 with an associated savings of \$7.5 million. The Public Defender indicates that, agencywide, staff attorneys are achieving 96% of the higher statutory caseload levels.

According to the Public Defender, part of the reason staff attorneys are having difficulty meeting their caseload levels is due to 12 paralegal positions that were added under Act 27 to perform nonattorney casework. Under Act 27, it was assumed that each paralegal would perform enough work so that overall staff attorneys could achieve an additional 12 statutory caseloads. However, the Public Defender indicates that since paralegals cannot appear in court, the 12 paralegals are working at the equivalent of six statutory caseloads, rather than 12. In addition, caseload levels are based on all authorized positions; however, since the Public Defender has vacant staff attorney positions, some portion of those caseloads are assigned to private counsel.

The remaining deficit component (\$410,800) results from unexpected caseload growth in the 1993-95 biennium. The additional cases were opened in 1994-95, but the bills were not paid until 1995-96.

A portion of the unbudgeted costs listed above are offset by unexpected savings resulting from lower than estimated caseload levels in the current biennium, additional savings from jurisdictional changes included under Act 27 and salary and fringe benefit savings from vacant attorney positions. [For example, the Public Defender typically experiences increases in caseload from four to six percent each year. In 1995-96, caseload actually fell by 13%.]

Part of the reason for the lower case numbers likely results from stricter verification of income and eligibility standards included under Act 27. However, it is not known how much of the reduction is due to changes in eligibility, improved economic factors or fewer criminal charges.

The SPD estimate assumes a 2% increase in caseload for the remainder of this fiscal year. However, so far this year the number of cases opened is only .56% higher than last year. If this

continues, the projected deficit could be reduced by \$50,000 (this figure is low because the Public Defender only has a few more months of case openings for which bills will be paid in this fiscal year).

Both costs and savings are likely to change between now and the end of the year based on actual collections and caseload levels. For example, early in the biennium the SPD estimated a 1995-97 deficit of \$10.8 million. In addition, the current deficit projection of \$3.7 million is an improvement over the September estimate of \$3.9 million. However, despite the improved projections, it is likely that a deficit of considerable magnitude will require attention in the next legislative session.

At this time, the Public Defender requests a transfer of surplus funds from salaries, fringe benefits and supplies and services to offset a portion of the expected deficit. The surplus funds are related to staff attorney positions which have not been filled as quickly as in the past, or not at all. Typically, the Public Defender has a low vacancy rate for its staff attorneys. Positions are filled as quickly as possible because, generally, hiring staff attorneys is less expensive than appointing private attorneys at hourly rates.

However, as of November 11, 1996, there were 12.3 vacant staff attorney positions. The Public Defender indicates that in some offices throughout the state such as Appleton, Beloit, Hudson, Racine, Rhinelander and Sheboygan, caseload has not been sufficient to warrant filling the positions. In addition, in Milwaukee County where additional cases are available, waiting time from court delays makes it difficult for attorneys to fulfill statutory caseload levels. As a result, staff positions in Milwaukee County are not as efficient as in other areas of the state, and therefore, the Office does not believe that it is prudent to move additional positions to that office.

A similar request was approved under s.13.10 at the Committee's June 27, 1996, meeting. At that time a transfer of \$860,500 was made from salaries, fringe benefits and supplies and services to the private bar appropriation, to reduce the private bar appropriation deficit.

The current request includes \$896,800 in salary and fringe benefits and \$53,800 and supplies and services. This \$950,600 represents two-thirds of a month of private bar payments and would reduce the estimated deficit to \$2,795,400. The transfer would allow for private bar payments to continue through the first week of February. The need for additional funds will have to be addressed either through: (1) a meeting under s. 13.10; or (2) separate legislation.

CONCLUSION

Based on the anticipated deficit in the private bar appropriation, the Public Defender's request to transfer available funds appears reasonable and, therefore, the Committee may wish to approve it.

Prepared by: Carri Jakel